

REMARKS

This paper is being filed in response to the Office Action dated March 25, 2003 that was issued in connection with the above-identified patent application. Applicants have enclosed herewith a Petition for Extension of Time and the fee required pursuant to 37 C.F.R. § 1.17(a)(3). Applicants respectfully request reconsideration of the instant application in view of the amendments and remarks presented herein.

Claims 1-35 are pending in the instant application. Claims 1-8 and 31-35 have been cancelled without prejudice. Claims 9, 10, and 21 have been amended. These amendments are supported by the application as originally filed, *inter alia*, at page 9, paragraph [0026] and, therefore, do not constitute new matter. New claims 36 and 37 have been added. These claims are supported by the application as originally filed, *inter alia*, at pages 9-10, paragraph [0027] and, therefore, do not constitute new matter. Thus, claims 9-30 and 36-37 will be pending upon entry of the instant amendment.

As a preliminary matter, Applicants thank the Examiner for rejoining the claims of Group III and IV as requested in Applicants Response to Restriction Requirement filed January 17, 2003 (Paper No. 5).

Claims 9, 19, 20, 21, 26, and 27 have been rejected under 35 U.S.C. §112, second paragraph as allegedly indefinite. The Examiner has alleged that the term "mussel hydrolysate" in these claims does not adequately delineate the metes and bounds of the invention. The Examiner has suggested that this material would be better described as a product-by-process since product-by-process claims are intended to define otherwise difficult to define subject matter. The Examiner has further directed Applicants attention to pages 8-10 of the instant specification for product-by-process guidance. Claims 9 and 21 have been further rejected under

35 U.S.C. §112, second paragraph as allegedly indefinite as failing to recite any operative amount of the mussel hydrolysate. The remaining claims have been rejected 35 U.S.C. §112, second paragraph as allegedly indefinite since they depend from one of the foregoing claims.

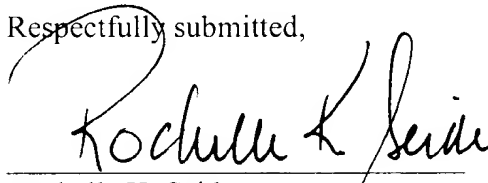
Applicants traverse these rejections and assert that the instant claims, as amended herein, are clear and definite. Applicants have amended claims 9 and 21 to recite a process by which mussel hydrolysate may be obtained. In addition, claims 9 and 21 have been amended to recite a concentration of mussel hydrolysate of "at least about 10 µg/mL." Claims 9 and 21 and all the respective dependent claims are, therefore, clear and definite and Applicants respectfully request withdrawal of the instant rejection.

Applicants believe the instant claims are in condition for allowance and respectfully solicit favorable action.

Applicants have enclosed the fee required pursuant to 37 C.F.R. § 1.17(a)(3).

Applicants do not believe that any additional fees are required with this paper. Nevertheless, the Commissioner is hereby authorized to charge any fees occasioned by this submission not otherwise enclosed herewith to Deposit Account No. 02-4377. Please credit any overpayment of fees associated with this filing to the above-identified deposit account. A duplicate of this page is enclosed.

Respectfully submitted,



Rochelle K. Seide
PTO Reg. No. 32,300
Attorneys for Applicants

Guy F. Birkenmeier
PTO Reg. No. 52,622
Agent for Applicants

BAKER BOTTS, L.L.P.
30 Rockefeller Plaza
New York, NY 10112
(212) 408-2500

August 27, 2003